



CHAPTER xliv.

An Act to empower the corporation of Darwen to supply heat by means of hot water or steam to authorise the diversion of a portion of the river Darwen and the acquisition of lands to make further provision in reference to the health improvement local government and finances of the borough of Darwen and for other purposes. [30th July 1948.]

WHEREAS the borough of Darwen is a municipal borough under the management and local government of the mayor aldermen and burgesses of the borough acting by the council (in this Act respectively referred to as "the borough" and "the Corporation"):

And whereas it is expedient to empower the Corporation to supply heat by means of hot water or steam within the borough:

And whereas it is expedient to authorise the Corporation to divert a portion of the river Darwen and to acquire lands as in this Act provided:

And whereas it is expedient that further and better provision should be made with reference to streets buildings nuisances and sanitary matters and for the local government and improvement of the borough and that the powers of the Corporation in relation thereto should be enlarged and extended:

And whereas it is expedient to make further provision with regard to the finances of the borough as by this Act provided:

And whereas estimates have been prepared by the Corporation in relation to the following purposes in respect of

which they are authorised to borrow money and such estimates are as follows:—

The purchase of lands	£2,000
The diversion of the river Darwen by this Act authorised and works in connection therewith	£25,000

And whereas the work included in the said estimates is a permanent work and it is expedient that the cost should be spread over a term of years as by this Act provided:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas a plan and section showing the lines and levels of the work to be authorised by this Act and a book of reference to such plan containing the names of the owners or reputed owners and lessees or reputed lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the county council of the county palatine of Lancaster which plan section and book of reference are in this Act respectively referred to as the deposited plan section and book of reference:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

23 & 24 Geo. 5.
c. 51.

And whereas in relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have been observed:

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the Darwen Corporation Act 1948.

Division of Act into Parts.

2. This Act is divided into Parts as follows:—

Part I.—Preliminary.

Part II.—Heating undertaking.

Part III.—Diversion of river Darwen.

Part IV.—Lands &c.

Part V.—Streets buildings sewers and drains.

Part VI.—Infectious disease sanitary provisions and nuisances.

Part VII.—Finance.

Part VIII.—Miscellaneous and general.

3. The Lands Clauses Acts except sections 127 to 132 of the Lands Clauses Consolidation Act 1845 (so far as such Acts are applicable for the purposes of and are not inconsistent with the provisions of this Act) are hereby incorporated with and form part of this Act:

Incorporation
of Lands
Clauses Acts.

Provided that the bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be under the common seal of the Corporation and shall be sufficient without the addition of the sureties mentioned in that section.

8 & 9 Vict.
c. 18.

4.—(1) In this Act the several words and expressions to which meanings are assigned by sections 90 269 and 343 of the Public Health Act 1936 have the same respective meanings unless there be something in the subject or context repugnant to such construction.

Interpretation.
26 Geo. 5. &
1 Edw. 8. c. 49.

(2) In this Act unless the subject or context otherwise requires terms to which meanings are assigned by the Acts incorporated wholly or in part with this Act or which have therein special meanings have in this Act (unless varied thereby) the same respective meanings.

And—

“ The borough ” means the borough of Darwen;

“ The Corporation ” means the mayor aldermen and burgesses of the borough;

“ The council ” means the council of the borough;

“ The town clerk ” “ the medical officer ” “ the surveyor ” and “ the sanitary inspector ” mean respectively the town clerk the medical officer the surveyor and any sanitary inspector of the borough and “ medical officer ” includes any person duly appointed by the Corporation to discharge temporarily the duties of medical officer of health;

“ The Lands Clauses Acts ” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 and the Town and Country Planning Act 1947;

9 & 10 Geo. 5.
c. 57.

10 & 11 Geo. 6.
c. 51.

“ Daily penalty ” means the penalty for each day on which any offence is continued after conviction;

“ The heating undertaking ” means the undertaking authorised by Part II (Heating undertaking) of this Act and includes all lands stations boiler-houses properties works buildings machinery plant mains pipes wires posts ducts apparatus appliances easements rights powers and privileges for the time being belonging to or held used or enjoyed by the Corporation for or in connection with the supply of heat by means of hot water or steam;

PART I.
—cont.38 & 39 Vict.
c. 55.

“ The Act of 1936 ” means the Public Health Act 1936 and “ the Public Health Acts ” means the Public Health Act 1875 and the Acts amending and extending the same prior to the Act of 1936;

“ The Act of 1933 ” means the Local Government Act 1933;

7 & 8 Geo. 6.
c. 31.

“ Child ” has the same meaning as in the Education Act 1944;

“ Sunday school ” means any school in which children are assembled for instruction on a Sunday or specially for religious instruction whether on a Sunday or not;

1 & 2 Geo. 6.
c. 56.

“ Food ” has the meaning assigned to it by section 100 of the Food and Drugs Act 1938;

“ The Minister ” means the Minister of Health;

10 & 11 Geo. 6.
c. 49.

“ The commission ” means the British Transport Commission and any reference to the commission in relation to any functions of the commission which are for the time being delegated to an executive in pursuance of section 5 of the Transport Act 1947 shall be construed as a reference to that executive;

“ The authority ” means the British Electricity Authority;

“ The board ” means the North Western Electricity Board;

41 & 42 Vict.
c. 76.

“ Telegraphic line ” has the same meaning as in the Telegraph Act 1878;

“ The general rate fund ” and “ the general rate ” mean respectively the general rate fund and the general rate of the borough;

“ Enactment ” means any Act of Parliament whether public general local or private any order or scheme made under an Act of Parliament or any provision in an Act of Parliament or in any such order or scheme;

“ Contravention ” in relation to any enactment byelaw order rule term condition restriction or notice includes a failure to comply with that enactment byelaw order rule term condition restriction or notice and “ contravene ” shall be construed accordingly.

(3) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Act.

PART II.

HEATING UNDERTAKING.

5. The Corporation may supply heat by means of hot water or steam to any premises in the borough upon and subject to such terms and conditions as may be agreed between the Corporation and the owners or occupiers of those premises:

Supply of
heat.

Provided that in the exercise of the powers of this section the Corporation shall not show undue preference to any person and shall not exercise any undue discrimination against any person.

6.—(1) Subject to the provisions of this Part of this Act the Corporation may on in or under any lands in the borough belonging or leased to them erect lay down maintain work and use stations boiler-houses mains pipes and other works for providing storing transmitting and distributing heat by means of hot water or steam and for producing any material product matter or thing arising or used in the process of such provision of heat by means of hot water or steam together with such buildings boilers engines machinery sidings matters and things of whatever description as may be required by the Corporation to enable them to provide store transmit and distribute heat by means of hot water or steam and the Corporation may accordingly on those lands provide store transmit and distribute heat by means of hot water or steam and may produce such materials products matters and things:

Works &c. for
provision of
heat.

Provided that—

- (a) nothing in this section shall be taken to dispense with the consent of any government department to any use of any lands of the Corporation in any case in which such consent would have been required if this section had not been enacted;
 - (b) any electrical works or apparatus erected laid down maintained worked and used in pursuance of this section shall be so constructed maintained worked and used as to prevent interference with any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.
- (2) (a) The Corporation may—
- (i) obtain for the purposes of this Part of this Act a supply of hot water or steam from any person and transmit such hot water or steam to and distribute heat by means thereof within the borough; and
 - (ii) generate electricity at any works established by them for the purposes of this Part of this Act and use all or

PART II.
—cont.

any of such electricity only for or in connection with the supply of heat by means of hot water or steam at any works at which such electricity is generated or (with the consent of the authority and the board) elsewhere or sell all or any of such electricity to the authority or (with the approval of the authority) the board.

(b) The Corporation may enter into and carry into effect agreements with any person for and with respect to any of the matters mentioned in paragraph (a) of this subsection and any such agreement may provide for the provision by the Corporation or for the joint user by them and any other party to the agreement of any works plant materials or things required for the purposes of the agreement.

7.—(1) If the Corporation shall resolve to construct extend modify or enlarge a station for providing heat under the powers of this Part of this Act the Corporation shall forthwith give to the Minister of Fuel and Power and to the authority notice of such resolution together with such information with regard to such station as the authority may within six weeks of the service of such notice reasonably require including information as to the nature position and capacity of the proposed station (but not details of design) the proposed method of producing heat thereat and the area proposed to be supplied therefrom and an estimate of the quantity or quantities of heat required by the Corporation for the purposes of their heating undertaking and of the times and form at and in which such quantity or quantities will be required Any dispute between the Corporation and the authority as to whether any information is reasonably required by the authority under this subsection shall be referred to and determined by the Minister of Fuel and Power.

(2) Within three months after the service of the said notice or the receipt of such information (whichever is the later) the authority may serve upon the Corporation a counter-notice offering a supply of heat to them upon such terms and conditions as may be specified in the counter-notice or as may be agreed between the Corporation and the authority.

(3) If within three months after the receipt of such counter-notice or such longer period as may be agreed between the Corporation and the authority the terms and conditions upon which a supply of heat is to be given to the Corporation by the authority for the purposes of the heating undertaking are not agreed between them the Corporation shall submit to the Minister of Health for determination the question whether a supply of heat shall be afforded to the Corporation by the authority and in that event the terms and conditions upon which such a supply is to be afforded.

As to
construction
of station for
providing
heat.

(4) If the Minister of Health determines that a supply of heat shall be afforded to the Corporation by the authority the authority shall afford such a supply in accordance with terms and conditions approved by the Minister:

Provided that if the Minister makes a substantial alteration in the terms or conditions on which the authority offered a supply of heat to the Corporation then if within twenty-eight days after the receipt of the determination of the Minister the authority give notice in writing to the Minister and the Corporation that the said terms or conditions are not acceptable they shall not be required to afford a supply of heat to the Corporation and the Corporation shall be entitled to proceed with their proposals as if this section had not been enacted unless within twenty-eight days of such last-mentioned notice the Corporation serve on the authority a notice requiring a supply in which case the authority shall afford a supply on the terms and conditions specified in the counter-notice referred to in subsection (2) of this section.

(5) (a) If the said station is constructed by the Corporation they shall supply and the authority shall take all the electricity generated thereat which is not—

(i) required for or in connection with the supply of heat;
or

(ii) supplied with the approval of the authority to the board;

upon such terms and conditions as may be agreed between the Corporation and the authority or in default of agreement determined by arbitration as hereinafter provided on the basis of a supply by a willing seller to a willing buyer;

(b) Any matter to be determined by arbitration under this subsection shall be referred to and determined by an arbitrator to be agreed upon between the Corporation and the authority or in default of agreement to be appointed by the President of the Institution of Electrical Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such reference and determination.

8.—(1) The Corporation by means of an order made by the Corporation and submitted to the Minister and confirmed by him may be authorised to purchase land compulsorily for the purposes of the heating undertaking and for the purpose of the erection thereon of any station for transforming converting or distributing electricity required for the purposes of the heating undertaking. Compulsory acquisition of land for heating undertaking.

(2) The Acquisition of Land (Authorisation Procedure) Act 1946 (except section 2 thereof) shall apply as if this section were an enactment contained in a public general Act and in force immediately before the commencement of that Act. 9 & 10 Geo. 6. c. 49.

PART II.
—cont.

(3) In this section the expression "land" includes easements and other rights in respect of land and the Corporation may be authorised under this section to acquire compulsorily such easements or rights only as they may require without purchasing any other interest in the land. In relation to the compulsory acquisition of any such easement or other right the said Acquisition of Land (Authorisation Procedure) Act 1946 (except section 2 thereof) and the enactments incorporated therewith shall have effect as if references (whatever the terms used) to the land comprised in the compulsory purchase order were construed where the context so requires as references to the land in respect whereof the easement or other right is acquired and references to the obtaining or taking possession of the land so comprised were construed as references to the exercise of the easement or other right.

(4) As regards any lands in respect of which the Corporation have acquired easements or rights only under the provisions of this section the Corporation shall not be required or entitled to fence off or sever such lands from the adjoining lands but unless otherwise agreed the owners or occupiers for the time being shall subject to such easements or rights have the same rights of using and cultivating the said lands at all times as if this Act had not been passed.

(5) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the Corporation to acquire the land the Corporation shall not be entitled under this section to acquire the easement or right unless the tribunal by whom the compensation is to be assessed determines that the easement or right can be granted without material detriment to the land or in the case of a park or garden belonging to a house without seriously affecting the amenity or convenience of the house:

Provided that nothing in this subsection shall apply to land forming part of a street.

(6) A notice to treat given under this section shall be endorsed with notice of the effect of subsection (5) of this section.

Further
powers as to
mains and
pipes.

9. For the purposes of this Part of this Act the Corporation shall have and may exercise the like powers and duties and be subject to the like restrictions as a local authority who supply water under the Act of 1936 have and are subject to under sections 119 and 333 of that Act with respect to the laying and maintenance of water mains and for that purpose the mains and pipes for supplying heat by means of hot water or steam shall be deemed to be water mains.

10.—(1) Before the Corporation—

- (a) apply to the appropriate sanctioning authority for consent to the borrowing of money for the purpose of constructing laying down or executing any works for providing storing transmitting or distributing heat under the powers of this Part of this Act; or
- (b) lay down any main under the provisions of this Part of this Act other than a main extending for a distance of not more than two hundred yards from any main laid down in accordance with proposals previously made under this section;

PART II.
—cont.

Consultation with authority and board as to certain works.

they shall give to the Minister and to the authority and the board notice of their proposals and such information with regard thereto as the authority or the board may within six weeks of the receipt of such notice reasonably require and shall consult with the authority and the board on such proposals Any dispute between the Corporation and the authority or the board as to whether any information is reasonably required by the authority or the board under this subsection shall be referred to and determined by the Minister.

(2) Without prejudice to the generality of subsection (1) of this section such information shall include particulars of the proposals (if any) of the Corporation as to the measures to be taken with respect to—

- (a) the securing of the safety of the mains pipes and apparatus of the authority and the board from damage or injury arising directly or indirectly from any mains or pipes to be laid down by the Corporation under the powers of this Part of this Act;
- (b) the insulation of any such last-mentioned mains or pipes so as to prevent the escape of heat therefrom;
- (c) the maximum and minimum temperatures and pressures at which heat may be stored transmitted and distributed by the Corporation;
- (d) the methods for measuring the volume temperature and pressure of the heat so stored transmitted or distributed; and
- (e) the independent testing of such measurements.

(3) The authority and the board or either of them may within three months after the receipt of such notice or the receipt of such information (whichever is the later) make representations to the Minister with respect to such proposals.

(4) If no such representations are made the Corporation shall not proceed except in accordance with the proposals sent to the authority and the board or any alteration thereof which may be agreed.

PART II.
—cont.

(5) If any such representations are made the Corporation shall not proceed with their proposals except with the approval of the Minister and in accordance with any modification of such proposals which the Minister may require.

(6) The provisions of this section shall not apply to the construction extension modification or enlargement of a station for providing heat under the powers of this Part of this Act.

(7) In and for the purposes of this section "the Minister" means the Minister of Fuel and Power.

Construction
&c. of electric
wires &c.

8 & 9 Geo. 6.
c. 42.

11.—(1) The following provisions of the Third Schedule to the Water Act 1945:—

(a) in Part V (Power to lay mains &c.) of the said schedule section 19 (except in subsection (1) thereof the words "and also subject to the provisions of the next succeeding section outside those limits") and section 21; and

(b) Part VI (Breaking open streets &c.) of the said schedule (except in section 22 thereof the words "and outside those limits for the purpose of laying any mains which they are authorised to lay and of inspecting repairing renewing or removing mains" and in section 25 subsection (4) thereof);

shall apply with the necessary modifications to the construction laying down erection and maintenance in under or over any street within the borough of any electric lines conductors or apparatus which the Corporation may and which they are hereby authorised to construct lay down or erect for the purposes of the heating undertaking.

62 & 63 Vict.
c. 19.

(2) All provisions for the protection of the Postmaster-General and his telegraphic lines which are contained in the Electricity (Supply) Acts 1882 to 1936 and in the schedule to the Electric Lighting (Clauses) Act 1899 shall so far as applicable extend and apply to any electric lines conductors or apparatus which the Corporation are authorised by subsection (1) of this section to construct lay down or erect and references in those provisions to undertakers shall be construed as referring to the Corporation.

(3) The powers of this section shall not be exercised except with the consent of the authority and the board.

Power to
supply
fittings.

12.—(1) In any premises in which the Corporation supply or propose to supply heat by means of hot water or steam they may provide (but not manufacture) and may supply by way either of sale or hire any such radiators pipes meters apparatus and fittings (in this Part of this Act referred to as

“ fittings ”) as may be required for or in connection with the utilisation of the heat so supplied and may instal repair or alter any such fittings whether supplied by them or not and may provide any materials and do any work required in connection with such installation repair or alteration.

(2) The Corporation may make such charges as may be agreed or in default of agreement as may be reasonable for any fittings supplied or any materials provided or work done under this section at the request of the owner or occupier of the premises supplied and where the amount does not exceed twenty pounds such charges may be recovered summarily as a civil debt.

(3) Any fittings let by the Corporation for hire and marked or impressed with a sufficient mark or brand indicating the Corporation as the actual owners thereof—

(a) shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession the same may be; and

(b) shall notwithstanding that they be fixed or fastened to any part of the premises in which they may be situate or to the soil under any such premises at all times continue to be the property of and (subject to the provisions of the Hire Purchase Act 1938) re-

I & 2 Geo. 6.
c. 53.

moveable by the Corporation:

Provided that nothing in this subsection shall affect the valuation for rating of any rateable hereditament.

(4) All fittings supplied by the Corporation under any hire purchase agreement shall until payment of the final instalment of the purchase money for such fittings be deemed for the purposes of subsection (3) of this section to be fittings let for hire by the Corporation.

(5) (a) The Corporation shall so adjust the charges to be made by them under this section as to meet any expenditure by them thereunder including interest upon any moneys borrowed for the purposes thereof and any sums carried to a sinking fund for repayment of moneys so borrowed.

(b) The total sums expended and received by the Corporation in connection with the purposes of this section in each year including interest and any sums carried to a sinking fund shall be separately shown in the published accounts of the Corporation for that year.

(6) If any person wilfully or negligently injures or suffers to be injured any fittings belonging to the Corporation he shall

PART II.
—cont.

be liable to a penalty not exceeding five pounds and the Corporation may do all such work as is necessary for repairing any injury done and may recover the expenses reasonably incurred by them in so doing from the offender and if the amount does not exceed twenty pounds summarily as a civil debt.

Collection and
recovery of
heating
charges.

13.—(1) The Corporation may from time to time prescribe a scale of charges (in this section referred to as "heating charges") for heat supplied to premises under the powers of this Act and where heat is so supplied to any premises the heating charges in accordance with the scale shall be payable by the occupier of those premises except in any case where the owner has agreed to pay the same in which case they shall be payable by the owner.

(2) The heating charges payable by any person may after a demand therefor be recovered from him by the Corporation either as a simple contract debt in any court of competent jurisdiction or if the amount does not exceed twenty pounds summarily as a civil debt and subject as hereinafter provided where a person fails to pay within seven days after a demand therefor any instalment of a heating charge payable by him in respect of any premises the Corporation may cut off the supply of heat to the premises and recover the expenses reasonably incurred by them in so doing in the same manner as the instalment due:

Provided that if before the expiration of the said seven days notice in writing is given to them that there is a dispute as to the amount due in respect of the heating charge or as to the liability to pay the charge they shall not cut off the supply of heat until the dispute has on the application of either party been determined by a court of competent jurisdiction.

Power to
enter
premises.

14.—(1) Any officer of the Corporation duly authorised in writing and (if so required) producing his authority may at all reasonable hours enter any premises to which the Corporation are supplying or have agreed to supply heat under the powers of this Part of this Act or any premises upon which any fittings have been installed for the purpose of or in connection with supplying heat to any premises as aforesaid—

(a) for the purpose of examining and inspecting any fittings whether belonging to the Corporation or not and (where such fittings include any meter for measuring heat supplied to any premises) of recording the reading of such meter;

(b) for the purpose of ascertaining whether there is or has been on or in connection with the premises any

contravention of the provisions of this Part of this Act or of any conditions subject to which a supply of heat was agreed to be furnished to any premises;

(c) for the purpose of ascertaining whether or not circumstances exist which would authorise the Corporation to take any action or execute any work under this Part of this Act;

(d) for the purpose of taking any action or executing any work authorised by this Part of this Act or by any agreement for the supply of heat to be taken or executed by the Corporation:

Provided that (except in cases of emergency arising from defects in any fittings) admission to any premises shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier:

Provided also that nothing in this section shall authorise any officer of the Corporation without the previous consent in writing of any electricity board established under and as defined in the Electricity Act 1947 to enter any premises occupied or used by such board in connection with the generation or supply of electricity other than offices or showrooms. 10 & 11 Geo. 6. c. 54.

(2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(a) that admission to any premises has been refused or that refusal is apprehended or that the premises are unoccupied or that the occupier is temporarily absent or that the case is one of urgency or that an application for admission would defeat the object of the entry; and

(b) that there is reasonable ground for entry into the premises for any such purpose as aforesaid;

the justice may by warrant under his hand authorise the Corporation by any authorised officer to enter the premises if need be by force:

Provided that such a warrant shall not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier or that the premises are unoccupied or that the occupier is temporarily absent or that the case is one of urgency or that the giving of such notice would defeat the object of the entry.

(3) An authorised officer entering any premises by virtue of this section or of a warrant issued thereunder may take with him such other persons as may be necessary and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.

PART II.
—cont.

(4) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(5) If any person who in compliance with the provisions of this section or of a warrant issued thereunder is admitted into a factory or workplace discloses to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret he shall unless such disclosure was made in the performance of his duty be liable to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

Interference
with
apparatus &c.

15.—(1) If any person either—

- (a) wilfully and without the consent of the Corporation;
- or
- (b) negligently;

turns on opens closes shuts off or otherwise interferes with any valve cock or other work or apparatus belonging to the Corporation and thereby improperly causes the supply of heat or hot water or steam to be interfered with he shall be liable to a penalty not exceeding five pounds and (whether proceedings be taken against him in respect of his offence or not) the Corporation may recover from him the amount of any damage sustained by them either as a simple contract debt in any court of competent jurisdiction or if the amount does not exceed twenty pounds summarily as a civil debt.

(2) If any person wrongfully takes uses or diverts any heat or hot water or steam from any apparatus provided for the purposes of this Part of this Act he shall (without prejudice to any other right or remedy of the Corporation) be liable to a penalty not exceeding five pounds.

Byelaws for
preventing
waste misuse
or contamina-
tion of hot
water.

16. If at any time the Corporation in the exercise of the powers of section 17 of the Water Act 1945 make byelaws for preventing waste undue consumption misuse or contamination of water supplied by them such byelaws shall apply with respect to pipes and other works used in connection with the supply and use of heat by means of hot water or steam as though that hot water or steam were water supplied by the Corporation.

Attachment of
brackets &c.
to buildings
and bridges.

17.—(1) The Corporation may with the consent in writing of the owner of any building or wall or any bridge over any street attach thereto such brackets heating mains electric lines and attachments (in this section referred to as "attachments") as may be required for the purposes of the heating undertaking.

(2) Where in the opinion of the Corporation any consent under subsection (1) of this section is unreasonably withheld.

they may make complaint to a court of summary jurisdiction who may by order either allow the attachments subject to such terms (if any) as to compensation or rent or otherwise as they may think fit or disallow the attachments.

(3) The provisions of subsection (2) of this section shall not apply in relation to—

- (a) any building or wall forming part of an aerodrome; or
- (b) any building which is designated in a list compiled or approved by the Minister of Town and Country Planning as being a building of architectural or historic interest or any building or wall which the owner thereof alleges to be a building or wall of such interest; or
- (c) any building or wall or bridge owned by the commission; or
- (d) any building or wall owned by the authority or the board;

but if in the opinion of the Corporation any consent under subsection (1) of this section is unreasonably withheld in relation to any such building or wall or bridge they may appeal in the case of a building or wall or bridge owned by the commission to the Minister of Transport in the case of a building or wall owned by the authority or the board to the Minister of Fuel and Power and in any other case to the Minister and the Minister of Transport the Minister of Fuel and Power or the Minister as the case may be may by order either allow the attachments subject to such terms (if any) as to compensation or rent or otherwise as he thinks fit or disallow the attachments.

(4) Where any attachments have been affixed to a building or wall or bridge under this section and the person who gave the consent or who was the owner when the order allowing the attachments was made ceases to be the owner of the building or wall or bridge the subsequent owner may give to the Corporation notice in writing requiring them to remove the attachments and subject to the provisions of this subsection the Corporation shall (unless otherwise agreed) within six months after the service of the notice remove the attachments:

Provided that the provisions of subsection (2) and subsection (3) of this section shall apply in relation to any such notice as they apply in relation to a refusal of a consent to the making of attachments.

(5) Where any attachments have been made under this section to any building or wall or bridge the owner of the building or wall or bridge may require the Corporation at their own expense temporarily to remove the attachments where necessary during any reconstruction or repair of the building or wall or bridge.

PART II.
—cont.

(6) In this section —
the expression “ owner ” —

(a) in relation to a building or wall occupied under a tenancy for a term of years whereof five years or more remain unexpired means the occupier of the building;

(b) in relation to a building occupied under any other tenancy means the person who is receiving the rack rent or who would receive the rack rent if the building were let at a rack rent;

(c) in relation to a building or wall forming part of an aerodrome means (notwithstanding anything in this subsection) the person having control of the aerodrome; and

the expression “ own ” shall be construed accordingly;

the expression “ rack rent ” means in relation to the building a rent which is not less than two-thirds of the full net annual value of the building; and

the expression “ aerodrome ” means an aerodrome licensed pursuant to an order made under the Air Navigation Act 1920 or any Act amending replacing or consolidating the same.

10 & 11 Geo. 5.
c. 80.

(7) The Provisions of section 290 of the Act of 1933 shall apply to the determination by the Minister of Transport of any difference referred to him under this section.

Reports and
returns with
respect to
heating
undertaking
and supply of
heat.

18.—(1) The Corporation shall give to the authority and the board such reports and returns and such information with respect to the heating undertaking as the authority or the board may reasonably require and the authority shall give to the Corporation such reports and returns and such information with respect to any supply by them of heat by means of hot water or steam as the Corporation may reasonably require.

(2) Any dispute between the Corporation on the one hand and the authority or the board on the other hand as to whether any reports returns or information are reasonably required by the authority or the board or the Corporation (as the case may be) shall be determined by the Minister of Fuel and Power.

For protection
of authority
and board.

19.—For the protection of the authority and the board (each of whom is in this section referred to as “ the electricity board ”) the following provisions shall unless otherwise agreed in writing between the Corporation and the electricity board apply and have effect:—

(1) In this section—

the expression “ apparatus ” means any electric lines or works (as respectively defined in the

Electric Lighting Act 1882) belonging to the electricity board; PART II.
—cont.

the expression " authorised work " means any main service pipe conduit duct or other work laid down placed or executed by the Corporation for the purposes of the heating undertaking in the exercise of the powers of this Part of this Act or any Act incorporated therewith: 45 & 46 Vict.
c. 56.

- (2) Where the Corporation require to dig or sink any trench for laying down placing or constructing any authorised work near to which any apparatus has been lawfully placed the Corporation shall give to the electricity board to whom such apparatus belongs notice in writing of such requirement together with plans sections and particulars of the authorised work to be laid in such trench and if it should appear to the electricity board that the laying down placing or construction of such authorised work would injure interfere with or endanger any apparatus or interfere with the access thereto or impede the supply of electricity by means thereof the electricity board may within fourteen days from the receipt of such notice give to the Corporation notice in writing requiring them to alter the position or depth of such apparatus in such manner as may be reasonably necessary for avoiding any such injury interference danger or impediment and any difference as to the necessity for such alteration or the manner of carrying out the alteration shall be determined by arbitration as hereinafter provided All such alterations shall (save as in this section provided) be carried out by and at the expense of the Corporation with as little detriment and inconvenience to the electricity board as the circumstances will admit and to the reasonable satisfaction of the engineer of the electricity board and under his superintendence unless after receiving not less than three days' notice for that purpose (which notice the Corporation are hereby required to give except in cases of emergency) he refuses or neglects to give such superintendence at the time specified in the notice for the commencement of such work or discontinues the same during the laying down placing or construction of such work:
- (3) The Corporation in laying down placing or constructing any authorised work shall not interfere with the access to any apparatus to any greater extent than is necessary for the purpose of or in connection with the carrying out of that work and shall not remove or displace any apparatus or do anything to endanger

PART II.
—cont.

any apparatus or impede the passage of electricity into or through any apparatus without the consent (which shall not be unreasonably refused) of the electricity board or in any other manner than the electricity board shall reasonably approve nor in the case of apparatus proposed to be removed or displaced until good and sufficient apparatus and other works reasonably necessary or proper for continuing the supply of electricity as the same was supplied by the apparatus proposed to be removed or displaced shall at the expense of the Corporation have been first made and laid down in lieu thereof and be ready for use to the reasonable satisfaction of the engineer of the electricity board:

(4) If the electricity board shall desire to alter the position or depth of any apparatus under subsection (2) of this section or to provide any substituted apparatus referred to in subsection (3) thereof and shall within the period of fourteen days referred to in subsection (2) of this section give not less than seven days' notice in writing thereof to the Corporation the electricity board may themselves carry out any of the said works and shall commence execute and complete the same with all reasonable dispatch and to the reasonable satisfaction of the Corporation and all reasonable expenses properly incurred by them under this subsection shall be repaid to them by the Corporation:

(5) The reasonable expense of all repairs or renewals of—
(i) any apparatus existing at the time of the laying down placing or construction of the authorised work; or
(ii) any apparatus substituted for such existing apparatus or any part thereof and being of reasonably similar size and type;

which may at any time hereafter be rendered reasonably necessary by reason of—

(a) the acts or defaults of the Corporation their contractors agents workmen or servants or any person in the employ of them or any of them in the exercise of the powers of this Part of this Act; or

(b) any subsidence resulting from the laying down placing construction or removal of any authorised work whether during the laying down placing construction or removal of the authorised work or at any time within two years thereafter; shall be borne and paid by the Corporation:

- (6) The Corporation in laying down placing constructing or removing any authorised work shall make good all damage done by them to any apparatus and shall make compensation to the electricity board for any loss damage costs or expenses which they may sustain by reason of any interference with such apparatus or the access thereto or with the private service or supply lines of any person supplied by the electricity board with electricity:
- (7) If any difference shall arise between the Corporation and the electricity board or their respective engineers with respect to any matter under this section the matter in difference shall be referred to and determined by a single arbitrator to be agreed upon between the parties or failing agreement to be appointed by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to such reference and determination:
- (8) In settling any difference under this section the arbitrator shall have regard to any duties or obligations which the electricity board may be under in respect of their apparatus and any duties or obligations which the Corporation may be under in respect of the authorised work and may if he thinks fit require the Corporation to execute any temporary or other works so as to avoid as far as may be reasonably possible interference with any purpose for which the apparatus is used.

20. Nothing in this Part of this Act shall exonerate the Corporation from any indictment action or other proceedings for nuisance in the event of any nuisance being caused or permitted by them.

Corporation not to be exempted from proceedings for nuisance.

21. The provisions of the Town and Country Planning Acts 1944 and 1947 shall where applicable apply to the heating undertaking as if that undertaking were a statutory undertaking and as if the Minister were the "appropriate Minister" within the meaning of section 119 of the Town and Country Planning Act 1947.

Heating undertaking to be a statutory undertaking under Town and Country Planning Acts 1944 and 1947. 7 & 8 Geo. 6. c. 47.

PART III.

DIVERSION OF RIVER DARWEN.

22. The Corporation may in the lines or situations and within the limits of deviation shown on the deposited plan and according to the levels shown on the deposited section make

Power to divert river Darwen.

PART III.
—cont.

and maintain the work in the borough hereinafter described together with all necessary works and conveniences connected therewith:—

A diversion of the river Darwen extending between points respectively forty-five feet or thereabouts and six hundred and five feet or thereabouts south-east of the point where the said river passes under Peabody Street.

Power to deviate in construction of works.

23. The Corporation in constructing the work by this Part of this Act authorised may deviate laterally from the line or situation of that work as shown on the deposited plan to any extent not exceeding the limits of deviation shown on that plan and may deviate vertically from the level shown on the deposited section to any extent not exceeding six feet either upwards or downwards.

Subsidiary powers.

24.—(1) Within the limits of deviation shown on the deposited plan the Corporation in connection with the work by this Part of this Act authorised and for the purposes thereof may—

- (a) make provide and maintain all necessary and convenient walls embankments piling fences culverts drains weirs sluices and footpaths and all such machinery works and appliances as may be required;
- (b) stop up and discontinue such portion of the river Darwen as will be rendered unnecessary by reason of the diversion thereof under the powers of this Part of this Act and fill in the channel of the said portion of river;
- (c) execute any works for the protection of any adjoining lands or buildings; and
- (d) remove alter divert or stop up any drain sewer channel or watercourse the Corporation providing a proper substitute before interrupting the flow of sewage in any drain or sewer or water in any channel or watercourse.

(2) (a) In the exercise of the powers conferred by this section the Corporation shall cause as little damage and inconvenience to any person as circumstances admit and shall make reasonable compensation for any damage caused to any person by the exercise of such powers.

(b) Any question as to the amount of any such compensation shall in default of agreement be determined by an official arbitrator under the Acquisition of Land (Assessment of Compensation) Act 1919.

25. The Corporation may for the purpose of the work by this Part of this Act authorised enter upon and use so much of the bed and banks of the river Darwen as is within the limits of deviation of the said work shown on the deposited plan and as may be required for that purpose and they may also for the purposes of executing and placing temporary works and conveniences in connection with such work occupy and use temporarily so much of such bed and banks within the said limits as may be required for those purposes or any of them.

PART III.
—cont.
Power to use
bed and banks
of river
Darwen.

PART IV.

LANDS &C.

26. The Corporation may enter upon take and use such of the lands delineated on the deposited plan and described in the deposited book of reference as may be required for the purpose of the work authorised by section 22 (Power to divert river Darwen) of this Act.

Power to
acquire lands.

27. The powers of the Corporation for the compulsory purchase of lands under this Act shall cease on the first day of October one thousand nine hundred and fifty-one.

Period for
compulsory
purchase of
lands.

28.—(1) If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plan or specified in the deposited book of reference the Corporation after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to two justices having jurisdiction in the borough for the correction thereof.

Correction of
errors in
deposited plan
and book of
reference.

(2) If on such application it appears to the justices that the omission misstatement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described.

(3) Any such certificate or a copy thereof shall be deposited with the clerk of the county council of the county palatine of Lancaster and a duplicate thereof shall also be deposited with the town clerk and thereupon the deposited plan and book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Corporation to take the lands and execute the work in accordance with the certificate.

(4) Any certificate or copy and duplicate deposited under this section shall be kept by such clerk and town clerk respectively with the other documents to which the same relate.

PART. V.

STREETS BUILDINGS SEWERS AND DRAINS.

Provisions as
to moveable
dwellings.

51 & 52 Vict.
c. 52.

29.—(1) Any moveable dwelling standing upon land abutting upon a street shall for the purpose of section 3 of the Public Health (Buildings in Streets) Act 1888 in its application to the borough be deemed to be a house or building within the meaning of those words where they first occur in the said section.

(2) It shall not be lawful without the written consent of the Corporation to place any moveable dwelling so as to stand upon any square court alley or passage to which the public have access.

(3) Any person who offends against the provisions of subsection (2) of this section shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

Further
provisions as
to working-
class houses.

26 Geo. 5. &
1 Edw. 8. c. 51.

30.—(1) For the purposes of Part II of the Housing Act 1936 any dwelling-house which is occupied or is of a type suitable for occupation by persons of the working classes the person having control of which fails to keep such dwelling-house sufficiently repaired and painted and the interior surface of the walls thereof sufficiently papered or distempered with oil-bound water paint of a suitable quality so as to prevent the dilapidation thereof and so as to secure reasonable amenities for the occupier or occupiers shall be deemed to be a house not in all respects fit for human habitation and the powers of the Corporation under the said Part II shall apply in respect of such dwelling-house accordingly.

(2) On an appeal to the county court by the person having control of a dwelling-house upon whom the Corporation have served notice under section 9 of the Housing Act 1936 in consequence of his failure to comply with the provisions of this section the county court judge shall take into consideration—

- (a) if the person upon whom the notice is served is a lessee or agent for a lessee the length of the unexpired period of the lease;
- (b) the period for which the dwelling-house is likely to continue occupied;
- (c) the expenditure incurred by the person having control of the house or the owner during the preceding three years upon the dwelling-house;
- (d) whether the condition of the dwelling-house is or is not due to the wilful default or neglect of the tenant.

31.—(1) In this section “neglected site” means the site of a demolished building which is in such a condition as to be prejudicial to the property in or the inhabitants of the neighbourhood. As to neglected sites.

(2) A court of summary jurisdiction on complaint by the Corporation may order the owner of any neglected site to remove any rubbish resulting from the demolition of the building within a reasonable time to be fixed by the order.

(3) If the order is not obeyed within the time thereby prescribed the Corporation at any time after the expiration of such time may enter upon the neglected site and execute the order.

(4) All expenses incurred by the Corporation under subsection (3) of this section in relation to a neglected site may be recovered by the Corporation from the owner of the neglected site.

32.—(1) Where it appears to the Corporation that any building which is let in flats or tenement dwellings is without satisfactory means of access for the purpose of the removal of refuse— Means of access to houses for removal of refuse.

(a) from each of such flats or tenement dwellings to a satisfactory place of storage of refuse; and

(b) from such place of storage to a street;

the Corporation may require the owner of the flat or tenement dwelling to provide such satisfactory means of access for those purposes.

(2) Any person who shall fail to comply with a requirement of the Corporation under this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

33.—(1) In exercising any powers of entry upon and inspection of any building or works in course of construction or repair the surveyor or the medical officer or the sanitary inspector or their assistants shall have from the builder or contractor for such building or works free of expense all reasonable use and assistance of ladders scaffolding and plant in and about such building or works. Powers on inspection.

(2) Any person who shall refuse such use and assistance as aforesaid or shall obstruct the surveyor the medical officer the sanitary inspector or their assistants in the use of such ladders scaffolding and plant as aforesaid shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

34.—(1) Where any person shall reconstruct or lay in a new position or permanently discontinue the use of any drain which communicates with any sewer or other drain such Abandoned drains to be cut off.

PART V.
—cont.

person shall cause any drain or portion of drain thereby rendered unnecessary to be cut off and sealed at each end.

(2) Such portion of discontinued or unnecessary drain shall if reasonably required by the Corporation having regard to the circumstances of the case be taken up destroyed or filled in with concrete or in such other manner as may be specified by the Corporation in any such requirement.

(3) Any person who contravenes the provisions or fails to comply with the requirements of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

As to defective
drains &c.

35.—(1) In any case where it appears to the surveyor the medical officer or the sanitary inspector that any drain private sewer water-closet or soil-pipe is stopped up the surveyor the medical officer or the sanitary inspector shall give notice to the owner or occupier of the premises to remedy the defect and if such notice is not complied with within twenty-four hours from the service thereof the Corporation may carry out the work necessary to remedy the defect and may subject as hereinafter provided recover the expenses incurred in that behalf from such owner or occupier.

(2) Upon any proceedings under this section the court may inquire whether any requirement contained in any notice given under this section or work done by the Corporation was reasonable and whether the expenses incurred by the Corporation in doing such work or any part thereof ought to be borne wholly or in part by the person to whom notice was given and the court may make such order concerning such expenses or their apportionment as appears to the court to be just and equitable in the circumstances of the case.

Further power
to examine
and test drains
&c. believed to
be defective.

36. The powers of section 48 of the Act of 1936 may be exercised in pursuance of any general or special directions given by the Corporation in any case where it appears to the surveyor the medical officer or the sanitary inspector that there are reasonable grounds for believing that a sanitary convenience drain private sewer or cesspool is in such a condition as to be prejudicial to health or a nuisance or that a drain or private sewer communicating directly or indirectly with a public sewer is so defective as to admit subsoil water.

As to repair
of drains.

37. If any drain or private sewer shall not be well and sufficiently maintained and kept in good repair to the satisfaction of the Corporation it shall be lawful for the Corporation if in their opinion such drain can be sufficiently repaired at a cost not exceeding fifty pounds to cause the same to be repaired and the expenses of such repairs may be recovered

by them from the owner or owners of such drain in such proportions as the surveyor shall determine:

PART V.
—cont.

Provided that where such expenses do not exceed forty shillings the Corporation may remit the payment of the same by the owner or owners if the Corporation think fit.

38. Section 81 of the Act of 1936 shall extend to empower the Corporation to make byelaws for preventing slop water from any house or premises from being discharged or thrown or suffered to be discharged or thrown or to pass into any street gully in the borough. Byelaws as to throwing slop water into street gullies.

PART VI.

INFECTIOUS DISEASE SANITARY PROVISIONS AND NUISANCES.

39.—(1) The occupier of any building which is used for human habitation and in which there is or has been any person suffering from a notifiable disease shall on the application of the medical officer at any time during the illness of such person or within six weeks from the existence of such illness furnish such information within his knowledge as the medical officer may reasonably require for the purpose of enabling measures to be taken to prevent the spread of the disease. Information to be furnished in case of notifiable disease.

(2) Any occupier refusing to furnish such information or knowingly furnishing false information shall be liable to a penalty not exceeding forty shillings.

40. If any person at the request of the Corporation or the medical officer stop his employment for the purpose of preventing the spread of a notifiable disease the Corporation may make compensation to him for any loss occasioned by reason of such stoppage. Compensation to persons for ceasing employment to prevent spread of disease.

41. If the medical officer has reasonable cause to believe that in any premises there is a person who is suffering or who has recently suffered from a notifiable disease he may on obtaining a warrant from a justice of the peace which such justice is hereby authorised to grant enter such premises and examine any person found therein with a view to ascertaining whether he is suffering or has recently suffered from such disease. Entry into premises in case of disease.

Provided that the medical officer shall not under the powers of this section—

- (a) enter any premises except between the hours of seven in the morning and ten in the evening; or
- (b) examine a person who is already under the treatment of a medical practitioner except with the consent of the latter.

PART VI.
—cont.Restrictions on
attendance
at schools and
places of
assembly.

42.—(1) As from the commencement of this section no person of or exceeding the age of sixteen years who has the custody charge or care of a child—

- (a) who is or has been attending any school or any part thereof which for the time being is closed by order of the local education authority or of any committee or body to whom powers of that authority are delegated with the view of preventing the spread of a disease to which this section applies; or
- (b) who is suffering from a disease to which this section applies; or
- (c) who with the view of preventing the spread of a disease to which this section applies has been prohibited from attending school by the medical officer or school medical officer;

shall permit such child to attend any Sunday school or day school or place of public entertainment or assembly without having procured from the medical officer or school medical officer or the medical practitioner attending the child a certificate (which if granted shall be granted free of charge upon application) that in his opinion such child may attend such Sunday school or day school or place of public entertainment or assembly without undue risk of communicating disease to others.

(2) The diseases to which this section applies are notifiable diseases as defined by section 343 of the Act of 1936 and any other disease which the Minister by regulation made under section 143 of the Act of 1936 declares to be a notifiable disease.

(3) In this section the expression "day school" means a school (not being a school provided by a local education authority) at which some or all of the children are not boarders but the provisions of this section shall not apply to the attendance at a day school of children who are boarders at that school.

(4) Any person who offends against the provisions of this section shall be liable to a penalty not exceeding forty shillings.

Power to close
schools and
exclude
children from
entertain-
ments.

43.—(1) If the Corporation or any committee of the council acting on the advice of the medical officer with the view of preventing the spread of a disease to which this section applies require the closing of any Sunday school or day school or any department thereof or the exclusion of certain children therefrom for a specified time or the exclusion of children from places of public entertainment or assembly for a specified time such requirement shall be at once complied with.

(2) Any person responsible for the conduct or management of any Sunday school or day school or any department thereof or place of public entertainment or assembly wilfully failing to comply with any such requirement shall for every such failure be liable to a penalty not exceeding five pounds.

(3) The diseases to which this section applies are notifiable diseases as defined by section 343 of the Act of 1936 and any other disease which the Minister by regulation made under section 143 of the Act of 1936 declares to be a notifiable disease.

(4) In this section the expression "day school" means a school (not being a school provided by a local education authority) at which some or all of the children are not boarders but the provisions of this section shall not apply to the attendance at a day school of children who are boarders at that school.

44.—(1) As from the commencement of this section where any person being the owner of any bull ox cow heifer calf sheep lamb goat or pig which is emaciated or diseased and unfit for food is about to slaughter the same or about to cause the same to be slaughtered he shall give not less than twelve hours' previous notice to an authorised officer of such intention and shall on the application of an authorised officer within six weeks from the date of such slaughter furnish such information within his knowledge as such authorised officer may reasonably require for the purpose of enabling inquiries to be made to trace the disposition of the carcasses or any part thereof.

Notice of
slaughter of
animal unfit
for food.

(2) Any person failing to give such notice or refusing to furnish such information or knowingly furnishing false information shall be liable to a penalty not exceeding ten pounds.

(3) This section shall not apply to the slaughter of any animal to which the Public Health (Meat) Regulations 1924 apply.

(4) Nothing in this section shall affect the operation of the Diseases of Animals Acts 1894 to 1937 or of Part IV of the Agriculture Act 1937 or of any order licence or act of the Minister of Agriculture and Fisheries made granted or done thereunder.

1 Edw. 8. &
1 Geo. 6. c. 70

(5) In this section the expression "authorised officer" means (a) the medical officer (b) the sanitary inspector or (c) any other officer of the Corporation who is by virtue of the Food and Drugs Act 1938 an authorised officer for the purpose of the examination and seizure of meat under the provisions of that Act.

PART VI.
—cont.

Power to prohibit persons in advanced state of tuberculosis from selling &c. food.

45.—(1) If the medical officer shall certify that any person is suffering from tuberculosis of the respiratory tract and is in an infectious state and that he is employed within the borough in the cooking preparation or handling of food intended for consumption by persons other than himself or members of his household and that his continuance in such employment would in the judgment of the medical officer be detrimental to the public health the Corporation may request such person to stop his employment and on such request being made the Corporation may if they think fit make compensation to him in respect of any loss which he may sustain by reason of such stoppage.

(2) If any such person shall fail to comply with such request the Corporation may apply to a court of summary jurisdiction for an order requiring him to stop his employment and the court shall have power to make such an order if after consideration of all the circumstances it thinks fit to do so and may direct that such compensation as it deems equitable shall be paid by the Corporation to such person.

(3) If any such person fails to comply with any such order he shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding ten shillings.

(4) This section shall not apply to any employment or occupation to which the Public Health (Prevention of Tuberculosis) Regulations 1925 apply.

Byelaws as to stables.

46. The Corporation may make byelaws for securing the proper ventilation and lighting of any existing stable used for the accommodation of horses (whether the same is used as such at the passing of this Act or not) and for the prevention of insanitary conditions (a) in or about or arising out of any such stable or (b) in or about or arising out of or with regard to the situation in reference to other buildings of any stable erected after the passing of this Act.

Byelaws as to tipping refuse.

47.—(1) The Corporation may make byelaws for limiting or prescribing the places where the tipping of dust spoil or refuse may or may not take place for regulating such tipping and for prohibiting the use of any dust spoil or refuse tip so as to be a nuisance to the occupiers of any premises in the neighbourhood thereof.

(2) The byelaws made under this section may contain provisions for imposing on persons offending against the byelaws penalties recoverable on summary conviction not exceeding fifty pounds for each offence and a daily penalty not exceeding ten pounds.

(3) Without prejudice to any other remedy available the Corporation if satisfied of the existence of any conditions constituting a breach of any byelaw made in pursuance of this

section may proceed in the same way as they are by the Act of 1936 authorised to proceed with respect to a statutory nuisance of the existence of which they are satisfied and sections 93 to 98 inclusive and section 100 of that Act shall apply accordingly:

Provided that a person offending against any byelaws made in pursuance of this section shall not in respect of such offence be subjected both to a penalty under the byelaws and to a penalty under section 94 of the Act of 1936 as applied by subsection (3) of this section nor shall any such offender be subjected in respect of one and the same period both to a further penalty under the byelaws for continuance of his offence after conviction and to a penalty under section 95 of the Act of 1936 (as so applied) for failing to comply with an order or contravening an order.

(4) No byelaw under this section shall extend to regulate or control the tipping of spoil and refuse by the commission for the purpose of constructing widening or maintaining any railway canal dock or wharf works.

(5) Nothing in this section or in any byelaw made thereunder shall extend to the tipping by the Authority of any dust spoil or refuse or the use of any refuse tip on any land for the time being belonging to them and forming part of the site of or used in connection with a station for generating electricity.

48.—(1) As from the commencement of this section no person shall instal in any building whether erected before or after the passing of this Act any furnace for steam raising or for any manufacturing or trade purpose unless such furnace is so far as practicable capable of being operated continuously without emitting smoke.

Prevention of
smoke from
industrial
furnaces.

(2) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding ten pounds and any person who after conviction of an offence of installing a furnace in contravention of those provisions uses that furnace shall unless it has been amended so as to comply with those provisions be liable to a penalty not exceeding two pounds for each day on which he so uses the furnace.

(3) If a person before installing in a building a furnace to which this section applies submits to the Corporation plans proposals and particulars of the proposed furnace and furnishes them with such other necessary information in regard thereto as they may require the Corporation shall within a period of six weeks from the date upon which such plans proposals particulars and information are received by them serve a notice upon such person stating whether or not they are satisfied that the furnace is so far as practicable capable of being operated continuously without emitting smoke and

PART VI.
—cont.

if they are so satisfied or if they do not serve a notice upon such person before the expiration of the said period of six weeks no proceedings shall be taken against him under this section in respect of the installation of that furnace in accordance with the plans proposals particulars and information so submitted and furnished.

(4) Before serving a notice under this section stating that they are not satisfied that the furnace is so far as practicable capable of being operated continuously without emitting smoke the Corporation shall consult with the Minister of Fuel and Power.

(5) In determining for the purposes of this section whether a furnace is so far as practicable capable of being operated continuously without emitting smoke the Corporation or a court shall if either of the parties so desire have regard to cost and to local conditions and circumstances.

Prohibition on
sale of
verminous
articles.

49.—(1) No dealer shall—

(a) prepare for sale;

(b) sell or offer for sale; or

(c) deposit for the purpose of sale or preparation for sale;

any furniture mattress bed-linen clothing or similar article (in this section called "article") if the same are to his knowledge infested with bugs or other vermin or if by taking reasonable precautions he could have known the same to be so infested.

(2) If a dealer contravenes the provisions of this section he shall be liable to a penalty not exceeding five pounds and the Corporation upon a certificate of the medical officer or the sanitary inspector may remove any such verminous article and cause the same to be cleansed purified disinfected or destroyed as the case may require and may recover the cost of so doing from such dealer.

(3) (a) The medical officer and the sanitary inspector may enter any premises in which any article is sold or exposed for sale for the purpose of examining whether there be any contravention of the provisions of this section or for the purpose of removing any verminous article.

(b) Every person who refuses to permit the medical officer or the sanitary inspector to enter any premises or make any inspection which he is authorised under the provisions of this section to enter or make or obstructs him in the execution of his duty under such provisions shall be liable to a penalty not exceeding five pounds.

(4) For the purposes of this section—

"dealer" means any person who trades or deals in any of the articles referred to in this section;

"preparation for sale" shall not include disinfestation.

50. Section 83 of the Act of 1936 shall within the borough have effect as if the following were substituted for subsection (1) of that section:—

Cleansing of filthy or verminous premises.

“(1) Where it appears to the local authority upon a certificate of the medical officer of health or any sanitary inspector that any premises—

- (a) are in such a filthy or unwholesome condition as to be prejudicial to health; or
- (b) are verminous;

the authority shall give notice to the owner or occupier of the premises requiring him to take such steps as may be specified in the notice to remedy the condition of the premises—

- (i) by cleansing and disinfecting them;
- (ii) by distempering or whitewashing the interior surface thereof or in the case of premises used for human habitation or as shops or offices by papering or painting the said interior surface;

and the notice may require among other things the removal of wallpaper or other covering on the walls and in the case of verminous premises the taking of such other steps as may be necessary for the purpose of destroying or removing vermin.”

51.—(1) If the Corporation take action under paragraph (b) of subsection (1) of section 83 of the Act of 1936 as amended by this Act in its application to the borough and in the opinion of the Corporation it is necessary to use gas to destroy vermin on the premises they may serve notices on the occupiers of premises in the fumigation area and the risk area as defined in the Hydrogen Cyanide (Fumigation of Buildings) Regulations in force for the time being requiring all persons to vacate those premises during such period as may be specified by the Corporation:

Power to require persons to vacate premises during fumigation.

Provided that the Corporation shall not require any person to vacate his premises under this section unless temporary shelter or house accommodation shall have been provided for him.

(2) Any person who contravenes a notice served under this section shall be liable to a penalty not exceeding five pounds.

(3) The Corporation may pay to any person required to vacate premises in pursuance of the powers contained in this section such reasonable allowance as they think fit towards his expenses in removing.

(4) The Rent and Mortgage Interest Restrictions Acts 1920 to 1939 shall not be deemed to cease to apply to a house or

PART VI.
—cont.

premises by reason only of the fact that such house or premises have been vacated in compliance with a notice served under this section.

Noise
nuisance.

52.—(1) A noise nuisance shall be liable to be dealt with as a statutory nuisance under the Act of 1936:

Provided that no complaint to a justice under section 99 of the said Act shall be of any effect unless it is signed by not less than three householders or occupiers of premises within hearing of the noise nuisance which is the subject of the complaint.

(2) In any proceedings under the Act of 1936 in respect of a noise nuisance occasioned in the course of any trade business or occupation it shall be a good defence for the person charged to show that he has used the best practicable means of preventing or mitigating the nuisance having regard to the cost and to other relevant circumstances.

(3) For the purpose of this section a noise nuisance shall be deemed to exist where any person makes or continues or causes to be made or continued any excessive or unreasonable or unnecessary noise which is injurious or dangerous to health.

(4) Nothing in this section shall apply to the commission or their servants exercising statutory powers.

(5) Nothing in this section shall affect the power of the Corporation to make byelaws under section 249 of the Act of 1933.

Registration
of hairdressers
and barbers
and premises.

53.—(1) As from the commencement of this section every person who shall carry on the trade or business of a hairdresser or barber shall register his name and place of abode and also the premises in which such trade or business is carried on in a book to be kept at the offices of the Corporation for the purpose.

(2) The Corporation may make byelaws for the purpose of securing—

(a) the cleanliness of any premises registered under this section and of the instruments towels materials and equipment used therein; and

(b) the cleanliness of persons employed in such premises in regard to both themselves and their clothing.

(3) The person registered shall keep a copy of the byelaws made by the Corporation under this section displayed in the registered premises.

(4) (a) Any officer of the Corporation or other person duly authorised in writing in that behalf by the Corporation and if so required exhibiting his authority shall at all reasonable

times be afforded by the person registered full and free power of entry into the registered premises for the purpose of inspecting such registered premises and examining whether there is any contravention of the provisions of this section or any byelaw made thereunder and any such officer or person as aforesaid shall have the like power of entry into any premises in the borough in which the Corporation may have reasonable cause to suppose that the said trade or business is being carried on:

Provided that the powers conferred by this subsection of entering premises for the purpose of examining whether there is any contravention of any byelaw made for the purposes mentioned in paragraph (b) of subsection (2) of this section shall not be exercised by any officer except the medical officer or the sanitary inspector.

(b) Every person who refuses to permit any officer or authorised representative of the Corporation to enter or inspect any premises which such officer or authorised representative is authorised under the provisions of this section to enter or inspect or obstructs any such officer or representative in the execution of his duty under such provisions or under the provisions of any byelaw made under this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(5) Any person carrying on such trade or business as aforesaid whose name place of abode and premises in which such trade or business is carried on have not been registered in accordance with subsection (1) of this section or whose registration has been cancelled or suspended as hereinafter provided or who contravenes any of the provisions of this section or of any byelaw made thereunder shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings and a court of summary jurisdiction may (in lieu of or in addition to imposing a penalty) order the suspension or cancellation of the registration.

(6) Where any company within the meaning of the Companies Act 1948 commits any offence for which a penalty is provided by this section proceedings may be taken in respect of such offence against all or any of the directors and managers and the secretary or other officer of such company as well as or instead of against the company and every such director manager secretary and officer shall be liable on conviction to the like penalty as if he were the person committing the offence unless he proves to the satisfaction of the court—

(a) that the act which constituted the offence took place without his knowledge consent or connivance; and

PART VI.
—cont.

(b) that he was not guilty of any negligence in regard to securing the proper execution of this section.

Food storage
accommoda-
tion.

54.—(1) Every house erected after the passing of this Act shall be provided with sufficient and suitable accommodation for the storage of food and any owner who shall occupy or allow to be occupied any such house not so provided shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(2) Every existing house and every house the erection of which was commenced before the passing of this Act shall where reasonably practicable be provided with sufficient and suitable accommodation for the storage of food and any owner who shall occupy or allow to be occupied any such house which can reasonably be so provided but which is not so provided after one month's notice from the Corporation requiring the same to be done shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(3) For the purposes of this section the expression "house" includes any part of a building which is occupied or intended to be occupied as a separate dwelling and the conversion of a building into two or more separate dwellings shall be deemed to be the erection of a house.

Ejection of
steam and
waste gas to
annoyance of
public.

55.—(1) All steam or waste gas ejected from any stationary engine or the boiler or condensers thereof and all condensing water above a temperature of one hundred and ten degrees fahrenheit so ejected and all spent and ejected steam arising or produced in any trade business or manufacture shall be so discharged as not to be an annoyance to the public.

(2) Any person who shall cause or permit steam or waste gas or condensing water to be discharged contrary to the provisions of this section shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

(3) The provisions of this section shall not apply to any locomotive used by the commission.

PART VII.

FINANCE.

Power to
borrow.

56.—(1) Subject to the provisions of this Act the Corporation shall have power in addition and without prejudice to their powers of borrowing under the Act of 1933 from time to time to borrow without the consent of any sanctioning authority for and in connection with the purposes mentioned

in the first column of the following table the respective sums mentioned in the second column of the said table and they shall pay off all moneys so borrowed within such periods as the Corporation may determine not exceeding those respectively mentioned in the third column of the said table:—

(1) Purpose.	(2) Amount.	(3) Period for repayment.
(a) The purchase of lands under the powers of this Act.	£2,000	Sixty years from the date or dates of borrowing.
(b) The diversion of the river Darwen by this Act authorised and works in connection therewith.	£25,000	Thirty years from the date or dates of borrowing.
(c) The costs charges and expenses of this Act.	The sum requisite.	Five years from the passing of this Act.

(2) The provisions of Part IX of the Act of 1933 so far as they are not inconsistent with this Part of this Act shall extend and apply to money borrowed under this section as if it were borrowed under Part IX of that Act and the period fixed for the repayment of any money borrowed under this section shall as respects that money be the fixed period for the purpose of the said Part IX.

57. It shall not be lawful to exercise the powers of borrowing conferred by this Act (other than the power of borrowing to pay the costs charges and expenses of this Act as hereinafter defined) otherwise than in compliance with the provisions of any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act 1946.

Saving for powers of Treasury.

9 & 10 Geo. 6. c. 58.

58. It shall not be lawful to exercise the powers of borrowing conferred by this Act otherwise than in compliance with the provisions of the Local Authorities Loans Act 1945.

As to exercise of borrowing powers.
8 & 9 Geo. 6. c. 18.

59. Section 133 (Revenue and expenses of trading undertakings) of the Darwen Corporation Act 1926 shall be read and have effect as if the words “ (5) the markets undertaking and (6) the heating undertaking ” were substituted for the words “ and (5) the markets undertaking ”.

Amendment of section 133 of Act of 1926.
16 & 17 Geo. 5. c. xi.

60. Section 134 (Separate accounts in respect of certain undertakings) of the Darwen Corporation Act 1926 shall be read and have effect as if the words “ the markets undertaking and the heating undertaking ” and the words “ the

Amendment of section 134 of Act of 1926.

PART VII.
—cont.

electricity undertaking the markets undertaking and the heating undertaking respectively to one-tenth ” were respectively substituted for the words “ and the markets undertaking ” and the words “ and the electricity undertaking respectively to one-tenth.”

PART VIII.

MISCELLANEOUS AND GENERAL.

61.—(1) The Corporation may make byelaws for the purposes of regulating the following matters:—

As to sale
of certain
articles for
animal feeding
purposes.

(a) the situation construction and equipment of any premises other than a knacker's yard at which horseflesh or diseased or unsound meat or any product containing any of those substances is sold or is offered or exposed for sale or is in the possession of or deposited with or consigned to any person for the purpose of sale from the premises or of preparation for any such sale as food for any animal or for use in the composition or preparation of any such food; and

(b) the cleanliness and sanitary conditions of such premises and the provision of suitable storage therein for food intended for animal consumption; and

(c) the keeping of accurate records of—

(i) the description quantities and weights of all horseflesh and all meat (whether wholesome or diseased or sound or unsound) and all products of horseflesh or of such meat as last aforesaid delivered at or sold otherwise than by retail at or from any premises (not being a knacker's yard) at which the sale or offer or exposure for sale of horseflesh or diseased or unsound meat or any product containing any of those substances is carried on;

(ii) the dates at which such deliveries and sales take place; and

(iii) the names and addresses of the persons from whom the articles so delivered are obtained and the persons to whom such sales are made.

(2) For the purposes of this section the expression “ horseflesh or diseased or unsound meat or any product containing any of those substances ” shall not include any horseflesh or meat or any product containing any of those substances which whilst remaining on the premises is contained in tins effectually sealed.

(3) (a) As from the commencement of this subsection and subject to the provisions of this subsection no premises (not being a knacker's yard) shall be used for the sale or offer or exposure for sale or deposit or consignment for sale or preparation for sale of horseflesh or diseased or unsound meat or any product containing any of those substances as food for any animal or for use in the composition or preparation of any such food unless such premises are registered under this section for that purpose by the Corporation and a person who uses any premises in contravention of the provisions of this subsection shall be liable in the case of a first offence to a fine not exceeding ten pounds and in the case of a subsequent offence to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding two months or to both such a fine and such imprisonment.

(b) Subject to the following provisions of this subsection the Corporation shall on the application of the occupier or of a person proposing to occupy any premises register those premises for the purposes of this subsection.

(c) If it appears to the Corporation that any premises for the registration of which application has been made under this subsection or which are registered under this subsection do not satisfy the requirements of any byelaws made under subsection (1) of this section or are otherwise unsuitable for use for the purpose for which they are proposed to be used or are being used the Corporation shall serve on the applicant for registration or as the case may be on the occupier for the time being of the premises a notice stating the place and time not being less than seven days after the date of the service of the notice at which they propose to take the matter into consideration and informing him that he may attend before them with any witnesses whom he desires to call at the place and time mentioned to show cause why the Corporation should not for reasons specified in the notice refuse the application or as the case may be cancel the registration of the premises.

(d) If a person on whom a notice is served under the last preceding paragraph fails to show cause to the satisfaction of the Corporation they may refuse the application or as the case may be cancel the registration of the premises and shall forthwith give notice to him of their decision in the matter and shall if so required by him within fourteen days of their decision give to him within forty-eight hours a statement of the grounds on which it was based.

(e) A person aggrieved by the decision of the Corporation under this subsection to refuse to register any premises or to cancel the registration of any premises may appeal to a court of summary jurisdiction.

PART VIII.
—cont.

(f) The provisions of sections 87 88 89 and 90 of the Food and Drugs Act 1938 shall apply in relation to any appeal to a court of summary jurisdiction and any order determination or other decision of a court of summary jurisdiction and any appeal and any decision of the Corporation under this subsection in the same way as they apply in relation to the corresponding proceedings under that Act.

(g) Upon any change in the occupation of premises registered under this subsection the incoming occupier shall if he intends to use them for the purpose for which they are registered forthwith give notice of the change to the Corporation who shall thereupon make any necessary alteration in their register. If a person required to give a notice under this paragraph fails to do so he shall be liable to a fine not exceeding five pounds.

(4) The medical officer the sanitary inspector or any other officer of the Corporation appointed for the purpose and producing if so required his authority shall have a right to inspect any records required by any byelaws made under this section to be kept.

(5) Sections 287 and 288 of the Act of 1936 shall apply as if any byelaws made under this section were made under the provisions of that Act.

(6) In this section the expression "horseflesh" has the meaning given to it in subsection (5) of section 38 of the Food and Drugs Act 1938 and the expression "knacker's yard" has the meaning given to it in subsection (1) of section 100 of that Act.

62.—(1) The Corporation may from time to time make byelaws—

- (a) for regulating the hours during which pleasure fairs and any place kept or used for public roller-skating may be open to the public;
- (b) for securing safe and adequate means of ingress to and egress from any pleasure fair or to and from any place kept or used for public roller-skating;
- (c) for the prevention and suppression of nuisances and for preserving sanitary conditions cleanliness order and public safety at any pleasure fair or any place kept or used for public roller-skating.

(2) In this section—

the expression "pleasure fair" means any place of entertainment for admission to which or for the use of the contrivances in which a charge is made and where the entertainment comprises any or all of the

following whether or not in combination with any other forms of entertainment that is to say any circus exhibition of human beings or performing animals merry-go-round roundabout switchback railway cocoanut shy hoop-la shooting gallery swings dodgems or other mechanical driving or riding devices automatic or other machines intended for entertainment or amusement and anything similar to any of the foregoing:

PART VIII.
—cont.

Provided that the expression "pleasure fair" does not include any place where—

(a) any fair is held by statute royal charter royal licence letters patent or ancient custom; or

(b) the entertainment is not run for profit and is not carried on for more than seven consecutive days.

(3) Before making any byelaws under this section the Corporation shall give to the Amusement Caterers' Association and the Association of Amusement Park Proprietors of Great Britain not less than one month's notice of the intention of the Corporation to make such byelaws and such notice shall be accompanied by a copy of the draft byelaws and the Corporation shall confer with the said associations thereon before they submit them to the Secretary of State for confirmation.

63.—(1) While any child is entering or leaving any school provided or maintained by the local education authority or is entering or leaving any yard or playground appurtenant to any such school or is in any such yard or playground no person shall solicit such child—

Prohibition on solicitation of school children to sell or exchange articles &c. at schools.

(a) to sell to such person any article or thing; or

(b) to exchange with such person any article or thing for any other article or thing.

(2) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding five pounds.

64. The Corporation may levy and recover such charges as they think fit for taking at the request and for the convenience of any consumer at a time other than that of the periodical meter readings the reading of any gas water and heating meters fixed in any premises:

Charges for special readings of meters.

Provided that such charges shall not exceed the sum of two shillings and sixpence for each reading of a gas or heating meter or one shilling for each reading of a water meter.

PART VIII.

—cont.

Service of
demand notes.
15 & 16 Geo. 5.
c. 90.

65. The provisions of section 59 of the Rating and Valuation Act 1925 relating to the sending or service of demand notes shall apply to demand notes for any charges made in connection with any undertaking department or service of the Corporation.

Breach of
conditions of
consent of
Corporation.

66. Where under any general or local Act from time to time in force in the borough the Corporation give their consent to the execution of any work or the doing of any act or thing subject to any terms or conditions which they are authorised to impose any breach of any such terms or conditions shall be deemed as regards liability to a penalty and other consequences equivalent to the execution of the work or the doing of the act or thing without the required consent.

Demand
complaint
information
or summons
may contain
several sums.

67. There may be included—

- (a) in one and the same demand or in any schedule thereto any general rate and any water rate and any charges for the supply of gas or heat; and
- (b) in one and the same complaint information or summons or in any schedule thereto any water rate and any charges for the supply of gas or heat:

Provided that the rates or charges are due and payable to the Corporation from the same person whether under the same or different enactments from time to time in force in the borough.

Undertakings
to bind
successive
owners.

68.—(1) Every undertaking or agreement under seal expressed to be made in pursuance of this section and given by or to the Corporation to or by the owner of any legal estate in land or property on the passing of plans or otherwise in connection with such land or property shall be binding upon such owner and his successors in title and all persons claiming through or under him or them and upon the Corporation and such owner and other persons upon whom such undertaking or agreement is binding shall be entitled to require from the Corporation a copy of such undertaking or agreement.

(2) Any such undertaking or agreement of such owner shall be treated as a local land charge for the purposes of the Land Charges Act 1925.

(3) Any such undertaking or agreement of such owner shall not be binding upon any person in whom any other legal estate in such land or property is vested at the date thereof nor upon his successors in title unless such person joins in such undertaking or agreement.

69. As respects byelaws made under this Act the confirming authority for the purposes of section 250 of the Act of 1933 shall be—

PART VIII.
—cont.
Confirming
authority for
byelaws.

- (a) in the case of byelaws made under section 62 (Byelaws as to pleasure fairs) of this Act the Secretary of State; and
- (b) in all other cases the Minister.

70.—(1) The provisions of this Act to which this section applies shall come into operation on but not until such date as may be fixed by a resolution of the Corporation of which date public notice shall be given by the Corporation by advertisement in one or more local newspapers circulating in the borough.

Commence-
ment of certain
provisions of
this Act.

Every such advertisement shall also state the effect of the provisions to which it relates and the date specified therein as the date on which such provisions shall come into operation shall not be less than one month after the date of publication of the advertisement:

Provided that if the provision is one which requires the registration of any person or premises the application for the registration may be made and determined before the provision comes into operation.

(2) A copy of a newspaper containing such advertisement shall be sufficient evidence of the publication of the advertisement.

(3) This section shall apply to the following sections of this Act:—

- Section 42 (Restrictions on attendance at schools and places of assembly);
- Section 44 (Notice of slaughter of animal unfit for food);
- Section 48 (Prevention of smoke from industrial furnaces);
- Section 53 (Registration of hairdressers and barbers and premises);

and to subsection (3) of section 61 (As to sale of certain articles for animal feeding purposes) of this Act.

(4) As respects any of the said provisions which requires the registration of persons carrying on any business or of premises used for any purpose it shall be lawful for any person who when such provision came into operation—

- (a) was carrying on any such business or using any premises for any such purpose; and

PART VIII.
—cont.

(b) had made application in accordance with the provisions of this Act for such registration as is required by this Act;

to continue to carry on such business and to use such premises for such purpose until such time as he has been informed of the decision with regard to his application and if the decision is adverse during such further time as is provided under subsection (6) of section 72 (As to appeals) of this Act.

Restriction on
right to
prosecute.

71. Section 298 of the Act of 1936 shall apply to offences created by or under Part V (Streets buildings sewers and drains) and Part VI (Infectious disease sanitary provisions and nuisances) of this Act as if they were offences created by or under that Act except that the said section shall not apply to those created by or under section 55 (Ejection of steam and waste gas to annoyance of public) of this Act.

As to appeals.

72.—(1) Any person aggrieved by any requirement refusal or other decision of the Corporation or of any officer thereof under Part V (Streets buildings sewers and drains) (other than a requirement under section 35 (As to defective drains &c.) of this Act) or Part VI (Infectious disease sanitary provisions and nuisances) of this Act may except where otherwise expressly provided or when some other right of appeal is conferred by this Act appeal to a court of summary jurisdiction.

(2) The procedure upon any such appeal shall be by way of complaint for an order and the Summary Jurisdiction Acts shall apply to the proceedings.

(3) The time within which any such appeal may be brought shall except where otherwise expressly provided be twenty-one days from the date on which notice of the requirement refusal or decision was published or served upon the person desiring to appeal and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

(4) In any case in which such an appeal lies the document notifying the requirement refusal or decision in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought unless these have already been stated in a notice to the person concerned informing him of his right to a hearing before the Corporation with regard to the same matter.

(5) Where a person aggrieved by any order determination or other decision of a court of summary jurisdiction under

this Act is not by any other enactment authorised to appeal to a court of quarter sessions he may except where otherwise expressly provided appeal to such a court.

(6) Where any requirement refusal order determination or other decision against which a right of appeal is conferred by this Act involves the execution of any work or the taking of any action or makes it unlawful for any person to carry on any business which he was lawfully carrying on up to the time of such requirement refusal order determination or other decision or to use any premises for any purpose for which they were lawfully used up to such time—

- (a) no proceedings in respect of any failure to execute the work or take the action shall be taken;
- (b) the Corporation shall not execute such work or take such action; and
- (c) any such person may carry on such business and use such premises for such purpose;

until the time for appealing has expired or when an appeal is lodged until the appeal has been disposed of or withdrawn or fails for non-prosecution thereof.

(7) Where upon an appeal under this Act a court varies or reverses any requirement refusal or other decision of the Corporation effect shall be given to the order of the court and in particular any necessary consent certificate or other document shall be granted or issued and any necessary entry in any register shall be made.

73. Whenever the Corporation the surveyor or the sanitary inspector under any enactment or byelaw from time to time in force in the borough execute re-execute or alter any work or do any act or thing in default or at the request of the owner occupier or other person required to do such work act or thing the Corporation shall not as between themselves and such owner occupier or other person in the absence of any negligence on the part of the Corporation or the surveyor or the sanitary inspector or of any contractor or other person employed by them or him be liable to pay any damages penalties costs charges or expenses for or in respect of or consequent upon the executing re-executing or altering of such work or the doing of such act or thing and any such damages penalties costs charges or expenses payable by the Corporation in the absence of negligence as aforesaid shall be deemed to be part of the expenses payable by such owner occupier or other person and shall be recoverable accordingly.

In executing works for owner Corporation liable for negligence only.

74. Where under the provisions of any enactment from time to time in force in the borough the Corporation shall construct or do any works for the common benefit of two or more

Apportionment of expenses in case of joint owners.

PART VIII.
—cont.

buildings belonging to different owners the expenses which under those enactments or any of them are recoverable by the Corporation from the owners shall be paid by the owners of such buildings in such proportions as shall be determined by the surveyor or in case of dispute by a court of summary jurisdiction.

Inquiries by
Minister.

75. The Minister may hold such inquiries as he may consider necessary in regard to the exercise of any powers conferred upon him or the giving of consents under this Act and subsections (2) to (5) of section 290 of the Act of 1933 shall apply accordingly.

Inquiries by
Minister of
Fuel and
Power.

76. The Minister of Fuel and Power may hold such inquiries as he may consider necessary in regard to the exercise of any powers conferred upon him or the giving of consents under this Act and subsections (2) to (5) of section 290 of the Act of 1933 shall apply accordingly.

Compensation
how to be
determined.

77. When any compensation costs damages or expenses is or are by any local enactment from time to time in force in the borough directed to be paid and the method for determining the amount thereof is not otherwise provided for such amount shall in case of dispute be ascertained in the manner provided by subsection (2) of section 278 of the Act of 1936:

Provided that where any such compensation costs damages or expenses is or are directed or authorised to be paid or recovered in addition to any penalty for any offence the amount of such compensation costs damages or expenses in case of dispute may be ascertained by the court before whom any offender is convicted.

Application of
provisions of
Act of 1936.

78.—(1) The sections of the Act of 1936 hereinafter mentioned shall have effect as if they were re-enacted in this Act and in terms made applicable thereto:—

- Section 271 (Interpretation of "provide");
- Section 275 (Power of local authority to execute certain work on behalf of owners or occupiers);
- Section 276 (Power of local authority to sell materials);
- Section 277 (Power of councils to require information as to ownership of premises);
- Section 283 (Notices to be in writing; forms of notices &c.);
- Section 284 (Authentication of documents);
- Section 285 (Service of notices &c.);
- Section 286 (Proof of resolutions &c.);

- Section 287 (Power to enter premises);
- Section 288 (Penalty for obstructing execution of Act);
- Section 289 (Power to require occupier to permit works to be executed by owner);
- Section 291 (Certain expenses recoverable from owners to be a charge on the premises: power to order payment by instalments);
- Section 292 (Power to make a charge in respect of establishment expenses);
- Section 293 (Recovery of expenses &c.);
- Section 294 (Limitation of liability of certain owners);
- Section 295 (Power of local authority to grant charging orders);
- Section 296 (Summary proceedings for offences);
- Section 297 (Continuing offences and penalties);
- Section 299 (Inclusion of several sums in one complaint &c.);
- Section 304 (Judges and justices not to be disqualified by liability to rates);
- Section 328 (Powers of Act to be cumulative);
- Section 329 (Saving for certain provisions of the Land Charges Act 1925):

Provided that—

(a) The said sections 277 287 288 289 291 292 294 295 and 329 shall only apply to the provisions contained in Part V (Streets buildings sewers and drains) Part VI (Infectious disease sanitary provisions and nuisances) and Part VIII (Miscellaneous and general) of this Act; and

(b) The said sections 287 and 288 shall not apply to the provisions of section 49 (Prohibition on sale of verminous articles) and section 53 (Registration of hairdressers and barbers and premises) of this Act.

(2) Sections 283 and 285 of the Act of 1936 shall extend and apply in relation to any local enactment from time to time in force in the borough as if such sections were re-enacted in that local enactment and in terms made applicable thereto.

79. The following enactments of the Darwen Corporation Repeal Act 1926 are hereby repealed:—

Section 150 (Sums or warrant may contain several sums);

Section 154 (Compensation how to be determined).

PART VIII.

—cont.

Saving for
town and
country
planning.

Costs of Act.

80. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

81. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed and ascertained by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation out of the general rate fund and the general rate or out of money to be borrowed under this Act for that purpose.

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